

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

SUBTITLE 14

~~[HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF  
HAWAII]~~ HAWAII HOUSING FINANCE AND DEVELOPMENT  
CORPORATION

CHAPTER ~~[162]~~ 315

MORTGAGE CREDIT CERTIFICATE PROGRAM

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"Gross monthly income" is the sum of monthly gross pay, any additional income from overtime pay, part-time employment, bonuses, dividends, interest, royalties, pensions, Department of Veterans' Affairs (VA) compensation, net rental income, etc.; and other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income from trusts, and income received from business activities or investments). Information with respect to gross monthly income may be obtained from available loan documents executed during the four month period ending on the date of the closing of the mortgage, provided that any gross monthly income not included on the loan documents must be included by the issuer in determining gross monthly income.

"Board" means the board of directors of the corporation.

"Certified credit rate" or "credit rate" means the rate specified by the corporation on the MCC. The credit rate applicable to the MCC program is twenty per cent.

"Corporation" means the ~~[housing and community development corporation of Hawaii,~~ Hawaii housing finance and development corporation, a public body and a body corporate and politic of the State of Hawaii.

"Executive director" means the executive director of the corporation or the executive director's designee.

"Eligible borrower" means a person who is eligible to be a holder of an MCC.

"Federal MCC program" means the mortgage credit certificate program which was established pursuant to the IRC, including section 25 thereof, and the regulations promulgated thereunder.

"HRS" means the Hawaii Revised Statutes.

"IRC" means the Internal Revenue Code of the Internal Revenue Service, ~~[including sections 25 and 103A thereof,~~ and the corresponding regulations promulgated thereunder.

"IRS" means the Internal Revenue Service.

"MCC" means a mortgage credit certificate which is issued under the program.

"Mortgage lender" means a business enterprise authorized to do business in the State of Hawaii which has as one of its principal purposes, the origination or servicing of loans or both. Mortgage origination or servicing or both must customarily be part of the mortgage lender's regular, usual, and normal course of business. Organizations that originate or service such loans occasionally, or in special circumstances do not fall within this definition.

"Mortgage lender participation agreement" means a written contract between the corporation and mortgage lender which establish the terms by which mortgage lender will participate in the program.

"Program" means each and every qualified mortgage credit certificate program of the corporation which the corporation elects to authorize in accordance with the requirements of the federal MCC program.

"Rules" means these rules.

"State" means the State of Hawaii.

(b) The definitions of other terms used in these rules shall have the meaning ascribed to such terms under the IRC, including sections 25 and 103A thereof, for the federal MCC program, and the same are hereby incorporated by reference. [Eff ]

(Auth: HRS §201H-16) (Imp: HRS §201H-16)

§15-315-3 Delegation. The board delegates to the executive director or the executive director's designee the authority to implement and carry out the purposes of these rules. [Eff ] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

## SUBCHAPTER 2

### CONFORMANCE WITH FEDERAL MCC REQUIREMENTS

§15-315-10 Conformance with federal MCC program requirements. All applicable requirements of the federal MCC program, including all IRC laws, regulations and interpretations and amendments thereto which may be promulgated hereafter, will be operative with respect to the program. [Eff ]  
(Auth: HRS §201H-16) (Imp: HRS §201H-16)

§15-315-11 Program requirements. The corporation shall follow the procedures for implementing the program in accordance with the requirements of the federal MCC program. The corporation may establish its own eligibility and other requirements for participation in the program by applicants for MCCs, lenders and developers to the fullest extent allowed by the federal MCC program. [Eff ] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

§15-315-12 Waivers and variances. The board by resolution may waive or vary provisions of these rules provided that such waivers or variance are not inconsistent with the federal MCC program. [Eff ] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

§15-315-13 Interpretation. These rules shall be construed in a manner which is consistent with the laws, regulations, and interpretations pertaining to the federal MCC program. If there is any conflict or inconsistency between these rules and the laws, regulations, and interpretations pertaining to the federal MCC program, the provisions, regulations, and interpretations of the federal MCC program will

control. [Eff ] (Auth: HRS §201H-16)  
(Imp: HRS §201H-16)

### SUBCHAPTER 3

#### THE PROGRAM

§15-315-20 General description of the program.  
Under the federal MCC program, an eligible borrower is entitled to a credit against the eligible borrower's federal income tax as a percentage of the interest paid on a mortgage loan which the eligible borrower has obtained to finance the acquisition, qualified rehabilitation, or qualified home improvement of the eligible borrower's principal residence. The corporation shall determine the maximum amount of credit which shall be available to an eligible borrower in accordance with the requirements of the federal MCC program.

(b) The corporation is merely a conduit for granting the MCC. All underwriting and execution of required corporation and Federal certifications or affidavits will be performed under the mortgage lender participation agreement by the mortgage lenders participating in the program. The corporation will receive executed certifications and affidavits from participating mortgage lenders in order to determine the qualifications and eligibility of borrowers. Participating mortgage lenders may process financing, using normal procedures, with additional procedures at relevant points to satisfy MCC requirements.  
[Eff ] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

§15-315-21 Election not to issued qualified mortgage bonds. To establish a program, the corporation shall take action to elect not to issue an amount of qualified mortgage bonds that the corporation might otherwise issue under section 103A

of the IRC and the regulations thereunder during each calendar year and in lieu thereof to issue MCCs to eligible borrowers in accordance with the requirements of the federal MCC program. The corporation shall follow the requirements of the federal MCC program in making such election. [Eff ] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

§15-315-22 State certification. The governor of the State or the governor's designee or the director of finance of the State shall make the State certification in accordance with the requirements of the federal MCC program.  
[Eff ] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

§15-315-23 List of participating mortgage lenders. The corporation may maintain a list of mortgage lenders that are participating in the program subject to the requirements of the federal MCC program. To remain a participating mortgage lender, the mortgage lender must submit at least three (3) MCC application requests to the corporation which result in the corporation's issuance of MCCs during each calendar year. Failure to meet this requirement may  
(1) Result in the termination of the mortgage lender participation agreement and the mortgage lender being removed from the list of participating mortgage lenders; and  
(2) Make the mortgage lender ineligible to request to participate in the MCC program for a period of one year.  
[Eff ] (Auth: HRS §201H-16)  
(Imp: HRS §201H-16)

§15-315-24 Charges. (a) Subject to the requirements of the federal MCC program, the corporation [~~may establish~~] hereby establishes a schedule of fees which applications for MCCs, mortgage





[Eff ] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

(b) The corporation shall adjust MCC program acquisition cost limits upon the issuance of new IRS revenue procedures. Because the IRS revenue procedures are mandatory and the corporation has no discretion to amend or change the revenue procedures, new MCC program acquisition cost limits shall be established without a public hearing pursuant to section 91-3, HRS.

## MISCELLANEOUS

shall at all times be kept at the principal office of the corporation in its most current form and shall be available for inspection ~~at~~ during the corporation's normal business hours. [Eff \_\_\_\_\_] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

\$15-315-~~[34]~~ 41 Falsification of application.  
All information which an applicant for an MCC is required to furnish shall be signed and verified by such applicant in accordance with the requirements of the federal MCC program. Falsification of any information contained in any application shall be subject to the criminal sanctions of the Hawaii Penal Code, part V, section 710-1063, HRS, and shall constitute a misdemeanor. [Eff \_\_\_\_\_] (Auth: HRS §201H-16) (Imp: HRS §201H-16)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM

The repeal of chapter 15-162 and the adoption of chapter 15-315, Hawaii Administrative Rules, on the Summary Page dated \_\_\_\_\_, were adopted on \_\_\_\_\_, following public hearings held on \_\_\_\_\_, after public notice was given in the Honolulu Star-Advertiser, The Garden Island, The Maui News, West Hawaii Today and The Hawaii Tribune-Herald on \_\_\_\_\_.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.

\_\_\_\_\_  
David Lawrence, Chairperson  
Hawaii Housing Finance and  
Development Corporation

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

APPROVED:

\_\_\_\_\_  
LINDA LINGLE  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

\_\_\_\_\_

Filed